$~21 to 24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 06.11.2026

\# **CNR No. DLHC010116582025**

\+ W.P.(C) 2866/2025

SAACHI EXPORTS INDIA THROUGH ITS PROPRIETOR

.....Petitioner

Through: Mr. S. Sunil, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Aourv Yadav, Advs

(22)

\# **CNR No. DLHC010116182025**

\+ W.P.(C) 2868/2025

MANYA INFOTECH THROUGH ITS PROPRIETOR

.....Petitioner

Through: Mr. S. Sunil, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Niraj Kumar, Sr. Central Govt. Counsel With Mr. Chaitanya Kumar, Adv. for R-1.
Ms. Anushree Narain, SSC with Mr. Aourv Yadav, Advs
Mr. Niraj Kumar, Sr. Central Govt. Counsel with Mr. Chaitanya Kumar, Adv.

(23)

\# **CNR No. DLHC010116832025**

\+ W.P.(C) 2893/2025

GAURI GALLERY THROUGH ITS PROPRIETOR

.....Petitioner

Through: Mr. S. Sunil, Adv.

versus

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Tanceer Ahmed Ansari, Senior Panel Counsel for R-1.
Ms. Anushree Narain, SSC with Mr. Aourv Yadav, Advs

(24)

CNR No. DLHC010235472025

\+ W.P.(C) 5292/2025, CM APPL. 24161/2025

SHREE RADHEY JI ASSOCIATE THROUGH ITS PROPRIETOR .....Petitioner

Through: Mr. S. Sunil, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Devvrat Yadav, Mr. Kartik Sharma and Mr. Manhan Chawla, Advs. for UOI.
Mr. Aditya Singla, SSC CBIC, Ms. Arya Suresh Nair, Ms. Nehaol Shri L.V., Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. The present batch of Writ Petitions, filed under Article 226 of the Constitution of India, assails the Order-in-Original dated 04.02.2025 and the consequential Summary of Order dated 13.02.2025 [hereinafter collectively referred to as 'Impugned Orders'], passed by the Additional Commissioner, CGST, Delhi North. Since the petitions arise out of the same adjudication proceedings, involve a common show cause notice ('SCN') and raise

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

substantially overlapping issues, they are being taken up together and disposed of by this common judgment.

2. *Vide* the Impugned Orders, the adjudicating authority has confirmed the demand of tax against the respective Petitioners on the allegation of wrongful availment and utilisation of Input Tax Credit ('ITC') under Section 74(1) of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as the 'CGST Act'], read with the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017. Equivalent penalties have also been imposed, apart from interest under Section 50 of the CGST Act.

3. At the outset, it is necessary to notice that the Impugned Orders are appealable under Section 107 of the CGST Act. The statutory appellate mechanism provides an efficacious remedy against an order of adjudication and enables the Appellate Authority to examine the legality and correctness of the findings recorded by the adjudicating authority, including questions of fact and law.

4. The demands confirmed against the respective Petitioners are as follows:

Writ Petition No.	**Petitioner**	**Tax Demand (with Equivalent Penalty)**
2866/2025	Saachi Exports India	Rs.1,59,34,063/-
2868/2025	Manya Infotech	Rs.25,44,320/-
2893/2025	Gauri Gallery	Rs.61,47,474/-
5292/2025	Shree Radhey Ji Associate	Rs.1,03,21,049/-

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

5. The relevant facts, necessary for adjudication of the present Petitions, are briefly noticed.

6. The proceedings emanate from an investigation undertaken by the GST Department into the alleged creation and operation of a number of bogus firms for the purpose of issuing invoices without actual supply of goods and thereby facilitating wrongful availment and passing on of Input Tax Credit. The investigation, as reflected in the SCN, attributed the creation of several such firms to certain individuals and alleged that invoices had been issued to a large number of recipient firms across the country without corresponding movement or supply of goods.

7. Pursuant to the investigation, Form GST DRC-01A dated 05.07.2024 was issued, followed by SCN dated 02.08.2024. The Petitioners were amongst the noticees proceeded against on the allegation that they had availed and utilised inadmissible ITC on the strength of invoices issued by the alleged bogus supplier firms. The proceedings contemplated determination of tax, interest and penalty under Section 74(1) of the CGST Act.

8. The Petitioners contend that, upon receipt of the SCN, they submitted a communication dated 27.08.2024, specifically requesting an opportunity of personal hearing before passing of any adverse order. It is their case that despite the aforesaid request, no effective opportunity of personal hearing was afforded to them before passing the Impugned Orders.

9. The Impugned Order dated 04.02.2025 records that opportunities of personal hearing were granted to the noticees on

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

10.12.2024, 31.12.2024 and 08.01.2025. However, since the noticees or their authorised representatives did not appear on the scheduled dates, the adjudicating authority proceeded to decide the proceedings on the basis of the material available on record. The order further records that the notices fixing personal hearing were dispatched through speed post at the last known addresses of the noticees and were also affixed on the notice board in terms of Section 169 of the CGST Act.

10. The Petitioners dispute the aforesaid findings and contend that they never received any communication intimating the dates fixed for personal hearing through speed post with acknowledgement due. It is further contended that the adjudicating authority, without establishing that the modes of service contemplated under clauses (a) to (e) of Section 169(1) were not practicable, could not have resorted to affixation of notices on the notice board in terms of Section 169(1)(f) of the CGST Act.

11. In the aforesaid circumstances, the Petitioners have approached this Court seeking quashing of the Impugned Orders, principally contending that the adjudicating authority has passed the Impugned Orders in violation of the mandatory requirement of affording an opportunity of personal hearing under Section 75(4) of the CGST Act and without duly effecting service of notices fixing personal hearing in the manner prescribed under Section 169 of the CGST Act.

12. Heard learned counsel representing the parties and, with their able assistance, perused the paper books.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

13. Learned counsel representing the Petitioners has made the following submissions:

i. The Impugned Orders have been passed in breach of the mandatory requirement contained in Section 75(4) of the CGST Act. It is contended that the Petitioners had submitted a written request seeking an opportunity of personal hearing, which was not considered by the adjudicating authority before passing the adverse orders.

ii. The notices fixing the dates of personal hearing were not duly served upon the Petitioners in the manner prescribed under Section 169(1)(b) of the CGST Act, namely, through registered post or speed post or courier with acknowledgement due. It is contended that in the absence of establishing that the modes of service prescribed under clauses (a) to (e) of Section 169(1) were not practicable, the adjudicating authority could not have resorted to affixation of notices on the notice board under clause (f) thereof.

14. *Per contra*, learned counsel representing the Respondents support the Impugned Orders and submit that the Petitioners have an efficacious statutory remedy of appeal under Section 107 of the CGST Act. It is contended that the objections raised by the Petitioners concerning the grant of personal hearing and the mode of service of notices involve examination of the relevant departmental and postal records and can appropriately be considered by the Appellate Authority.

15. No other ground has been pressed by learned counsel representing the Petitioners.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

16. It is well settled that the existence of an alternative statutory remedy does not operate as an absolute bar to the exercise of jurisdiction under Article 226 of the Constitution of India. However, the jurisdiction of this Court is ordinarily not invoked to examine an adjudication order when the statute itself provides an efficacious appellate remedy, particularly where the controversy requires appreciation of evidence and examination of disputed questions of fact.

17. The Petitioners have confined their challenge to two principal issues, namely, whether the adjudicating authority has complied with the requirement of affording an opportunity of personal hearing under Section 75(4) of the CGST Act and whether the notices fixing such hearings were duly served in accordance with the procedure prescribed under Section 169 of the CGST Act.

18. The first objection concerns the alleged failure of the adjudicating authority to afford an opportunity of personal hearing despite the Petitioners having made a written request in that regard. Section 75(4) of the CGST Act provides that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where an adverse decision is contemplated against such person. The provision, therefore, envisages two independent circumstances in which an opportunity of personal hearing is required to be afforded. Consequently, the Petitioners' contention that their written communication dated 27.08.2024 specifically requested an opportunity of personal hearing, and that such request was not duly considered before passing the Impugned Order dated 04.02.2025.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

19. The second objection concerns the manner in which the notices fixing personal hearing were served upon the Petitioners. The manner of service of notices under the CGST Act is governed by Section 169 thereof. In terms of Section 169(1), service may be effected through any of the modes specified in clauses (a) to (f). In particular, clause (b) provides for service by registered post or speed post or courier, with acknowledgement due, at the last known place of business or residence of the person concerned. Clause (f), on the other hand, provides for service by affixation where none of the modes contemplated under the preceding clauses is practicable. In such a situation, the notice is first required to be affixed at the last known place of business or residence of the person concerned and, where such affixation is also not practicable, on the notice board of the office of the concerned officer or authority.

20. Further, Section 169(3) of the CGST Act provides that a notice sent by registered post or speed post shall be deemed to have been received by the person to whom it is addressed upon expiry of the period within which it would ordinarily be delivered, unless the contrary is proved.

21. The Petitioners dispute the Department's assertion regarding service of notices and contend that the prescribed mode of service through speed post with acknowledgement due was not duly followed. The determination of this objection would require examination of the dispatch records, postal acknowledgements and other relevant material maintained by the Department, as well as the circumstances in which recourse was taken to affixation on the notice board.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00

22. This Court is also conscious of the fact that the Impugned Order dated 04.02.2025 arise out of common adjudication proceedings involving several noticees. The present batch comprises four Petitioners, the controversy concerning compliance with the statutory requirement of personal hearing and the mode of service of notices would necessarily require examination of the individual records pertaining to each of them. In particular, the relevant correspondence, dispatch particulars, postal acknowledgements and other material relating to service of notices may have to be examined separately in respect of each Petitioner. Such an exercise would be more appropriately undertaken by the statutory Appellate Authority, which is empowered to examine the relevant records and adjudicate the objections raised by the respective Petitioners.

23. It is also brought to the notice of this Court that 14 appeals arising out of the same Impugned Order dated 04.02.2025 are already pending consideration before the Appellate Authority. The said circumstance also lends support to the course of relegating the Petitioners to the statutory appellate remedy, thereby enabling the objections raised herein to be considered by the same forum.

24. The Supreme Court in ***Assistant Commissioner of State Tax & Ors. v. Commercial Steel Limited***[1], has reiterated the principles governing exercise of writ jurisdiction in the presence of an alternative statutory remedy. While recognising the exceptions to the rule of alternative remedy, including violation of principles of natural justice, the Court has emphasised that the nature of the controversy and the

[1] (2022) 16 SCC 447

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2025 11:44:00

remedy available under the statute are relevant considerations in deciding whether extraordinary jurisdiction ought to be exercised.

25. In the present batch, although the Petitioners have invoked the principles of natural justice, the controversy essentially concerns whether their written requests for personal hearing were duly considered and whether the notices fixing such hearings were dispatched and served in the manner prescribed under Section 169 of the CGST Act. These issues would require examination of the relevant departmental records, dispatch particulars and postal acknowledgements. Having regard to the availability of the statutory appellate remedy under Section 107 of the CGST Act, this Court is of the considered view that the Petitioners should be relegated to such remedy rather than undertaking an examination of the aforesaid factual controversies in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

26. It is clarified that this Court has not expressed any opinion on the merits of the objections raised by the Petitioners concerning compliance with Section 75(4) and Section 169 of the CGST Act. The observations made herein are confined to the question of exercise of writ jurisdiction in the presence of an efficacious statutory remedy and shall not influence the consideration of the appeals, if preferred by the Petitioners.

27. Consequently, the present Writ Petitions are disposed of, leaving it open to the respective Petitioners to avail the statutory remedy of appeal under Section 107 of the CGST Act, in accordance with law.

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2025 11:44:00

28. In the event the Petitioners prefer appeals, the Appellate Authority shall independently examine all the grounds raised by them, including the objections concerning service of notices and grant of personal hearing. The Appellate Authority shall also consider the material placed on record and pass appropriate orders in accordance with law, without being influenced by any observations made in the present judgment.

29. The Petitioners shall be at liberty to seek such exclusion of the period during which the present writ petitions remained pending before this Court as may be permissible in law. Any such request shall be considered by the competent Appellate Authority in accordance with law.

30. The present Writ Petitions stand disposed of in the aforesaid terms. The pending application(s) also stand closed.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

NOVEMBER 06, 2026/sp/shah

Signature Not Verified
Signed By:SAVITA PASRICHA
Signing Date:17.11.2026 11:44:00